

## Message Text

CONFIDENTIAL

PAGE 01 BONN 19086 01 OF 02 251449Z

46

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 IO-10 SAJ-01 /075 W

----- 020773

P R 241333Z NOV 75

FM AMEMBASSY BONN

TO USMISSION USBERLIN PRIORITY

INFO SECSTATE WASHDC 4587

AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 19086

C O R R E C T E D C O P Y (CORRECTION DELETE FIRST PARA 4)

E.O. 11652: GDS

TAGS: PGOV PFOR PINT WB GW UR

SUBJECT: SOVIET PROTEST AT INVALIDATION OF BERLIN

ELECTIONS

REFS: (A) USBERLIN 2316; (B) USBERLIN 2291

BEGIN SUMMARY. EMBASSY BELIEVES THE SOVIET PROTEST CONCERNING THE DECISION OF THE BERLIN ELECTORAL COURT IS BASED ON AN EXPLOITATION OF AN AMBIGUITY IN THE RUSSIAN TEXT OF THE RELEVANT PROVISION OF THE QUADRIPARTITE AGREEMENT. WE RECOMMEND THAT THE PROPOSED ALLIED REPLY BE MODIFIED TO TAKE ACCOUNT OF THIS FACTOR. END SUMMARY.

1. WE ASSUME THAT, IN ACCORDANCE WITH USUAL PRACTICE, OUR BONN GROUP COLLEAGUES WILL NOT WISH TO ENTER INTO A DISCUSSION OF THE RESPONSE TO THE NOVEMBER 20 SOVIET CONFIDENTIAL

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PAGE 02 BONN 19086 01 OF 02 251449Z

PROTEST UNTIL THE BERLIN MISSIONS FORWARD AN AGREED TEXT

TO THE BONN GROUP FOR CONSIDERATION. WE WOULD, HOWEVER, LIKE TO OFFER OUR COMMENTS ON THE TEXT PROPOSED BY USBER (PARA 4 REFTEL A), FOR CONSIDERATION IN THE BERLIN DRAFTING PROCESS.

2. IN EMBASSY VIEW, THE USBER DRAFT DOES NOT MEET THE SOVIET PROTEST HEAD ON. OUR READING OF THE PROTEST IS THAT WHAT IS INVOLVED IS ANOTHER LINGUISTIC DISCREPANCY, OR AT LEAST AMBIGUITY, IN THE QUADRIPARTITE AGREEMENT WHICH MAY NOT HAVE COME TO LIGHT HERETOFORE.

3. AT ISSUE IS THE SENTENCE OF ANNEX II WHICH FOLLOWS THE STATEMENT THAT THE WESTERN SECTORS CONTINUE NOT TO BE GOVERNED BY THE FEDERAL REPUBLIC AND WHICH READS, IN THE ENGLISH VERSION OF THE QA, AS FOLLOWS:

"THE PROVISIONS OF THE BASIC LAW OF THE FEDERAL REPUBLIC OF GERMANY AND OF THE CONSTITUTION OPERATIVE IN THE WESTERN SECTORS OF BERLIN WHICH CONTRADICT THE ABOVE HAVE BEEN SUSPENDED AND CONTINUE NOT TO BE IN EFFECT."

4. IT IS CLEAR FROM THE ENGLISH AND FRENCH TEXTS THAT THE ANTECEDENT OF "WHICH" IN THE ABOVE PASSAGE IS "PROVISIONS." THIS IS NOT SO CLEAR IN THE RUSSIAN TEXT, WHICH, IF TRANSLATED BACK INTO ENGLISH WITH THE RUSSIAN PUNCTUATION RETAINED, WOULD READ AS FOLLOWS:

"THE PROVISIONS OF THE BASIC LAW OF THE FEDERAL REPUBLIC OF GERMANY AND OF THE CONSTITUTION, OPERATIVE IN THE WESTERN SECTORS OF BERLIN, WHICH CONTRADICT THE ABOVE, ARE SUSPENDED AND AS BEFORE ARE NOT IN EFFECT."

5. GIVEN THE REQUIREMENT THAT ALL RELATIVE CLAUSES IN RUSSIAN BE SET OFF BY COMMAS, IT IS IMPOSSIBLE TO TELL WHETHER THE ANTECEDENT OF "WHICH" IS "PROVISIONS" OR "BASIC LAW...AND CONSTITUTION." IT WOULD SEEM TO BE AN ABSURDITY TO ACCEPT THE LATTER INTERPRETATION, SINCE IT WOULD MEAN THAT ALL OF THE BERLIN CONSTITUTION HAS BEEN SUSPENDED. NEVERTHELESS, THIS APPEARS TO BE PRECISELY WHAT THE SOVIETS ARE SAYING IN THEIR

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PAGE 03 BONN 19086 01 OF 02 251449Z

NOVEMBER 20 PROTEST. AS REPORTED IN PARA 2, REF (A), THE SOVIET STATEMENT PARAPHRASES THE WORDING OF ANNEX II AND CLAIMS "THAT THE PROVISIONS OF THE BASIC LAW OF THE FRG AND OF THE CONSTITUTION...ARE SUSPENDED...."

6. WE THEREFORE BELIEVE THAT THE FINAL SENTENCE OF THE USBER DRAFT REPLY SHOULD BE REPLACED BY ONE WHICH SPECIFICALLY ATTACKS THIS INCORRECT READING OF THE QA.

SUCH A SENTENCE MIGHT STATE THAT IT IS CLEAR FROM THE QA THAT ONLY THOSE PROVISIONS OF THE BASIC LAW AND OF THE BERLIN CONSTITUTION WHICH ARE INCONSISTENT WITH THE PRINCIPLE THAT THE WSB CONTINUE NOT TO BE A CONSTITUENT PART OF THE FRG AND NOT TO BE GOVERNED BY IT HAVE BEEN SUSPENDED.

7. WHEN THE REPLY IS DELIVERED, KHOTULEV MIGHT BE GIVEN

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PAGE 01 BONN 19086 02 OF 02 241346Z

47

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 IO-10 SAJ-01 /075 W

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P R 241338Z NOV 75  
FM AMEMBASSY BONN  
TO USMISSION USBERLIN PRIORITY  
INFO SECSTATE WASHDC 4588  
AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY PARIS  
USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 02 BONN 19086

NOT ONLY A COPY OF BK/O(50)75, AS SUGGESTED BY USBER,  
BUT ALSO AN EXPLANATION THAT THE SOVIETS ARE OFF BASE  
INTHEIR ATTEMPT TO RESOLVE THE AMBIGUITY IN THE  
RUSSIAN TEXT IN THEIR FAVOR. SUCH A DISCUSSION MIGHT  
AT A MINIMUM SMOKE OUT THE REAL MOTIVES BEHIND THE  
SOVIET PROTEST.

HILLENBRAND

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## Message Attributes

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